

Michael J. Frevola (MJF 8359)
Christopher R. Nolan (CRN 4438)
HOLLAND & KNIGHT LLP
195 Broadway
New York, NY 10007-3189
(212) 513-3200

ATTORNEYS FOR PLAINTIFF
NORTH OFFSHORE AS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NORTH OFFSHORE AS,

Plaintiff,

-against-

ROLV BERG DRIVE AS,

Defendant.

07 Civ. 3095 (SHS)

**AFFIDAVIT OF MICHAEL J.
FREVOLO IN SUPPORT OF
PLAINTIFF'S OPPOSITION
TO DEFENDANT'S MOTION
FOR COUNTERSECURITY**

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

MICHAEL J. FREVOLO, being duly sworn, deposes and says:

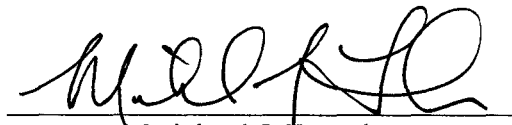
1. I am a member of the law firm Holland & Knight LLP, attorneys for Plaintiff North Offshore AS, and I am fully familiar with the facts in this case.

2. This Affidavit is made in support of North Offshore's opposition to the application of Defendant Rolv Berg Drive AS ("RBD") for countersecurity under Rule E(7)(a) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure. The statements made in this affidavit are based upon my personal knowledge.


3. Counsel for defendant RBD wrote this Court last week to request a hearing on Defendant's application for countersecurity set forth in its Verified Answer and Counterclaim dated August 27, 2007. A true copy of RBD's counsel's letter to this Court dated September 26, 2007 (and endorsed by this Court) is annexed as Exhibit 1.

4. To my knowledge, Defendant RBD has not filed either a legal memorandum or affidavits or affirmations in support of its application its letter to the Court of last week. After receiving the Court's endorsement of RBD's counsel's letter last week, I wrote to RBD's counsel to inquire as to whether the Court had set a briefing schedule and what that schedule might be. Counsel for RBD responded the same day by stating that "I don't intend to brief anything – I am just seeking the counter-security as in my pleading – if you want to answer it by Monday so I can reply before the hearing sounds good to me." A true copy of my e-mail to RBD's counsel dated September 27, 2007 and his reply the same day are annexed as one e-mail string as Exhibit 2.

WHEREFORE, it is respectfully requested that this Court deny the Defendant RBD's application for countersecurity pursuant to Rule E(7)(a) in its entirety, and grant such other and further relief to the Plaintiff as may be appropriate.


Michael J. Frevola

Sworn to before me this
1st day of October, 2007


Notary Public

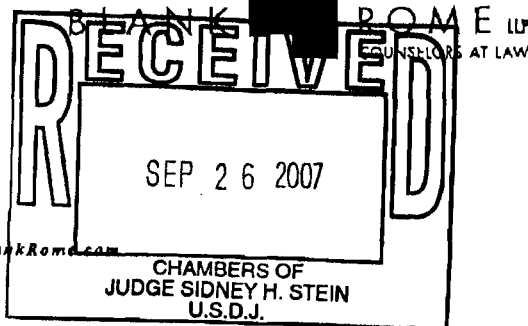
Elvin Ramos
Notary Public, State of New York
NO. 01RA4870243
Qualified in Queens County
Certificate filed in New York County
Commission Expires September 2, 2010

EXHIBIT 1

Phone: (212) 885-5149

Fax: (917) 332-3720

Email: JHarwood@BlankRome.com



September 26, 2007

BY FAX

Honorable Sidney H. Stein
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York NY 10007

Re: North Offshore As v. Rolv Berg Drive AS
 07 CV 3095 (SHS)
Our Ref. No.: 128127-00601

Dear Judge Stein:

We are attorneys for defendant Rolv Berg Drive AS ("RBD"). RBD filed a verified answer and counterclaim under Admiralty Rule E(7) dated August 27, 2007. The purpose of this letter is to request the expedited hearing contemplated under Local Rule E.1, in respect of vacating the attachment and/or provision of Rule E countersecurity in respect thereto. We respectfully request that a hearing be scheduled prior to October 11, after which the undersigned must be abroad.

Respectfully submitted,

Jeremy J.O. Harwood
 Jeremy J.O. Harwood

JJH:rk

cc: By Fax
 Michael J. Frevola, Esq.
 Holland & Knight LLP
 Attorneys for Plaintiff

*a hearing will take place on
 Oct. 9, 2007, at 2:30 pm.*

SO ORDERED 9/27/07

Sidney H. Stein
 SIDNEY H. STEIN
 U.S.D.J.

EXHIBIT 2

Frevola, Michael (NYC - X73516)

From: Harwood, Jeremy J.O. [jharwood@BlankRome.com]
Sent: Thursday, September 27, 2007 4:36 PM
To: Frevola, Michael (NYC - X73516)
Subject: RE: North Offshore v. Rolv Berg Drive

He just so ordered that letter - no input from me - I don't intend to brief anything - I am just seeking the counter-security as in my pleading - if you want to answer it by Monday so I can reply before the hearing sounds good to me

Jeremy J.O. Harwood | Blank Rome LLP
The Chrysler Building, 405 Lexington Avenue | New York, NY 10174-0208
Phone: 212.885.5149 | Fax: 917.332.3720 | Email: JHarwood@BlankRome.com

From: michael.frevola@hklaw.com [mailto:michael.frevola@hklaw.com]
Sent: Thursday, September 27, 2007 4:26 PM
To: Harwood, Jeremy J.O.
Subject: North Offshore v. Rolv Berg Drive

Jeremy:

Here's the first three complaints. How did the hearing time come about and what is the briefing schedule?

My client is not in a position to post security. I may have to protest the Wednesday hearing unless we can move it back a few days, because we differ on whether the counter-security application is entitled to an expedited treatment (as per my attached e-mail).

Please let me have your response on the questions above as soon as practicable.

Best regards,
Mike Frevola

<<07_3095_complaint_Apr_19_2007_15_25_54_973.pdf>> <<1stamended.pdf>> <<2ndamended.pdf>> <<RE: North Offshore v Rolv Berg 07 civ 3095>>

Holland + Knight

Michael J. Frevola, Esq.
Partner
Holland & Knight LLP
195 Broadway
New York, New York 10007

Main 212 513 3200
Direct 212 513 3516
Mobile 516 521 6365
Fax 212 385 9010
Email michael.frevola@hklaw.com

10/1/2007

www.hklaw.com

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